

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

STEVEN J. INGERSOLL,

Petitioner,

Case No. 14-cr-20216-1

v.

Honorable Thomas L. Ludington

UNITED STATES OF AMERICA,

Respondent.

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**ORDER ADOPTING REPORT AND RECOMMENDATION  
AND DENYING PETITIONER'S MOTION TO VACATE**

Petitioner was originally charged on April 11, 2014. ECF No. 3. On April 23, 2014, a superseding indictment was filed, charging Petitioner with conspiracy to defraud a financial institution in violation of 18 U.S.C. §1349 (Count 1), conspiracy to defraud the United States and the Internal Revenue Service of the Department of Treasury in violation of 18 U.S.C. § 371 (Count 2), wire fraud (electronic funds transfer of \$704,000 of construction loan proceeds from the Madison Arts account to Roy and Tammy Bradley's construction company's account) in violation of 18 U.S.C. § 1343 (Count 3), wire fraud (electronic funds transfer of \$704,000 of construction loan proceeds from Roy and Tammy Bradley's construction company account to Gayle Ingersoll's business account) in violation of 18 U.S.C. § 1343 (Count 4), wire fraud (electronic funds transfer of \$704,000 of construction loan proceeds from Gayle Ingersoll's business account to Petitioner's personal bank account) in violation of 18 U.S.C. § 1343 (Count 5), tax evasion for the 2009 calendar year in violation of 26 U.S.C. § 7201 (Count 6), and tax evasion for the calendar year 2010 in violation of 26 U.S.C. § 7201 (Count 7). ECF No. 24. Petitioner was convicted on Counts 2, 6 and 7 via jury trial held from February 10 through

February 17, 2015, and February 25 through February 27, 2015, and March 3 through March 10, 2015. ECF No. 154.

Count 1 was dismissed by the Court (ECF No. 152) and the jury found Petitioner not guilty on Counts 3, 4, and 5. *Id.* Sentencing hearings were held on October 20, October 21, October 22, 2015, December 8 and December 10, 2015. Further sentencing hearings were held on January 5, January 7, January 26, January 27, January 28, February 23, February 24, July 11, July 12, and December 15, 2016. Judgment entered on December 21, 2016, sentencing Petitioner to 41 months on Counts 2, 6, and 7, to be served concurrently. ECF No. 349 at 2. On January 24, 2017, Petitioner filed the instant pro se motion to vacate sentence. ECF No. 352. The motion was referred to Magistrate Judge Patricia T. Morris (ECF No. 365) the government responded (ECF No. 366) and Petitioner replied. (ECF No. 372). The magistrate judge entered a report recommending that this Court deny Petitioner's Motion to Vacate. ECF No. 377.

Although the magistrate judge's report explicitly states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither party has filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal. As such, the Court concludes that Petitioner has failed to make a substantial showing of the denial of a constitutional right, and a certificate of appealability is not warranted in this case. The Court further concludes that Petitioner should not be granted leave to proceed *in forma pauperis* on appeal, as any appeal would be frivolous. *See* Fed. R. App. P. 24(a).

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 377, is **ADOPTED**.

It is further **ORDERED** that Petitioner's motion to vacate his sentence, ECF No. 352, is **DENIED**.

It is further **ORDERED** that a certificate of appealability is **DENIED**.

It is further **ORDERED** that leave to proceed *in forma pauperis* on appeal is **DENIED**.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: October 24, 2017

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 24, 2017.

s/Kelly Winslow  
KELLY WINSLOW, Case Manager